

108TH CONGRESS  
2D SESSION

# H. R. 4302

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IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2004

Received

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## AN ACT

To amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “District of Columbia  
5       Mental Health Civil Commitment Modernization Act of  
6       2004”.

7       **SEC. 2. COMPOSITION, APPOINTMENT, AND ORGANIZATION**  
8               **OF COMMISSION ON MENTAL HEALTH.**

9       (a) IN GENERAL.—Section 21–502, District of Co-  
10      lumbia Official Code, is amended to read as follows:

11      **“§ 21–502. Commission on Mental Health; composi-**  
12               **tion; appointment and terms of members;**  
13               **organization; chairperson; salaries**

14      “(a) The Commission on Mental Health is continued.  
15      The Chief Judge of the Superior Court of the District of  
16      Columbia shall appoint the members of the Commission,  
17      and the Commission shall be composed of 9 members and  
18      an alternate chairperson. One member shall be a mag-  
19      istrate judge of the Court appointed pursuant to title 11,  
20      District of Columbia Official Code, who shall be a member  
21      of the bar of the Court and has engaged in active practice  
22      of law in the District of Columbia for a period of at least  
23      5 years prior to his or her appointment. The magistrate  
24      judge shall be the Chairperson of the Commission and act  
25      as the administrative head of the Commission. The Chair-

1 person shall preside at all hearings and direct all of the  
2 proceedings before the Commission. Eight members of the  
3 Commission shall be psychiatrists or qualified psycholo-  
4 gists, as those terms are defined in section 21–501, who  
5 have not had less than 5 years of experience in the diag-  
6 nosis and treatment of mental illness.

7 “(b)(1) Appointment of members of the Commission  
8 shall be for terms of 4 years.

9 “(2) The initial appointment of a psychiatrist or a  
10 qualified psychologist shall be for a probationary period  
11 of one year. After the initial one-year probationary ap-  
12 pointment, subsequent appointments of the psychiatrist or  
13 qualified psychologist shall be for terms of 4 years.

14 “(c) The psychiatrist or qualified psychologist mem-  
15 bers of the Commission shall serve on a part-time basis  
16 and shall be rotated by assignment of the Chief Judge of  
17 the Court, so that at any one time the Commission shall  
18 consist of the Chairperson and 2 members, each of whom  
19 is either a psychiatrist or a qualified psychologist. Mem-  
20 bers of the Commission who are psychiatrists or qualified  
21 psychologists may practice their professions during their  
22 tenures of office, but may not participate in the disposition  
23 of a case of a person in which they have rendered profes-  
24 sional service or advice.

1       “(d) The Chief Judge of the Court shall appoint a  
2 magistrate judge of the Court to serve as an alternate  
3 Chairperson of the Commission. The alternate Chair-  
4 person shall serve on a part time basis and act as Chair-  
5 person in the absence of the permanent Chairperson.

6       “(e) The rate of compensation for the members of  
7 the Commission who are psychiatrists or qualified psy-  
8 chologists shall be fixed by the Executive Officer of the  
9 Court.”.

10       (b) CLERICAL AMENDMENT.—The item relating to  
11 section 21–502 in the table of sections for subchapter I  
12 of chapter 5 of title 21, District of Columbia Official Code,  
13 is amended to read as follows:

“21–502. Commission on Mental Health; composition; appointment and terms  
of members; organization; chairperson; salaries.”.

14       (c) EFFECTIVE DATE; TRANSITION FOR CURRENT  
15 MEMBERS.—The amendments made by this section shall  
16 take effect on the date of the enactment of this Act, except  
17 nothing in this section or the amendments made by this  
18 section may be construed to affect the appointment or  
19 term of service of any individual who serves as a member  
20 or alternate member of the Commission on Mental Health  
21 (including an individual who serves as the Chairperson or  
22 alternate Chairperson of the Commission) on such date.

1 **SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND**  
2 **COMPELLABLE WITNESSES AT MENTAL**  
3 **HEALTH PROCEEDINGS.**

4 Section 21–503(b), District of Columbia Official  
5 Code, is amended by striking “The Commission, or any  
6 of the members thereof,” and inserting “Commission  
7 members who are psychiatrists or qualified psychologists”.

8 **SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND**  
9 **DIAGNOSIS.**

10 Section 21–526, District of Columbia Official Code,  
11 is amended by adding at the end the following new sub-  
12 sections:

13 “(c) The maximum period of time for detention for  
14 emergency observation and diagnosis may be extended for  
15 up to 21 days, if judicial proceedings under subchapter  
16 IV of this chapter have been commenced before the expira-  
17 tion of the order entered under section 21–524 and a psy-  
18 chiatrist or qualified psychologist has examined the person  
19 who is the subject of the judicial proceedings and is of  
20 the opinion that the person being detained remains men-  
21 tally ill and is likely to injure himself or others as a result  
22 of the illness unless the emergency detention is continued.  
23 For good cause shown, the Court may extend the period  
24 of detention for emergency observation and diagnosis. The  
25 period of detention for emergency observation and diag-  
26 nosis may be extended pursuant to section 21–543(b) or

1 following a hearing before the Commission pursuant to  
2 subsections (d) and (e) of this section.

3       “(d) If the Commission, at the conclusion of its hear-  
4 ing pursuant to section 21–542, has found that the person  
5 with respect to whom the hearing was held is mentally  
6 ill and, because of the mental illness, is likely to injure  
7 himself or others if not committed, and has concluded that  
8 a recommendation of inpatient commitment is the least  
9 restrictive alternative available to prevent the person from  
10 injuring himself or others, the detention for emergency ob-  
11 servation and diagnosis may be continued by the Depart-  
12 ment or hospital—

13               “(1) pending the conclusion of judicial pro-  
14 ceedings under subchapter IV of this chapter;

15               “(2) until the Court enters an order dis-  
16 charging the person; or

17               “(3) until the Department or hospital deter-  
18 mines that continued hospitalization is no longer the  
19 least restrictive form of treatment appropriate for  
20 the person being detained.

21       “(e) If the Commission, at the conclusion of its hear-  
22 ing, finds that the person is mentally ill, is likely to injure  
23 himself or other persons as a result of mental illness if  
24 not committed, and that outpatient treatment is the least  
25 restrictive form of commitment appropriate, then, within

1 14 days of the date of the hearing, the person shall be  
2 discharged from inpatient status and shall receive out-  
3 patient mental health services or mental health supports  
4 as an emergency nonvoluntary patient consistent with this  
5 subchapter, pending the conclusion of judicial proceedings  
6 under subchapter IV of this chapter.”.

7 **SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS AL-**  
8 **LEGED TO BE MENTALLY ILL.**

9 Section 21–543, District of Columbia Official Code,  
10 is amended—

11 (1) in subsection (a) (as redesignated by section  
12 2(r)(1) of the Mental Health Civil Commitment Act  
13 of 2002), by striking the last sentence; and

14 (2) by adding at the end the following new sub-  
15 section:

16 “(b) The Commission may not grant a continuance  
17 for counsel to prepare his case for more than 5 days. The  
18 Commission may grant continuances for good cause shown  
19 for periods of up to 14 days. If the Commission grants  
20 a continuance, the emergency observation and detention  
21 of the person about whom the hearing is being held shall  
22 be extended for the duration of the continuance.”.

1 **SEC. 6. HEARING AND DETERMINATION ON QUESTION OF**  
2 **MENTAL ILLNESS.**

3 (a) IN GENERAL.—Section 21–545, District of Co-  
4 lumbia Official Code, is amended—

5 (1) in subsection (a), by striking “jury trial”  
6 each place it appears and inserting “jury trial or a  
7 trial by the Court”;

8 (2) by amending subsection (b) to read as fol-  
9 lows:

10 “(b)(1) If the Court or jury finds that the person is  
11 not mentally ill or is not likely to injure himself or others  
12 as a result of mental illness, the Court shall dismiss the  
13 petition and order the person’s release.

14 “(2) If the Court or jury finds that the person is men-  
15 tally ill and, because of that mental illness, is likely to  
16 injure himself or others if not committed, the Court may  
17 order the person’s commitment to the Department or to  
18 any other facility, hospital, or mental health provider that  
19 the Court believes is the least restrictive alternative con-  
20 sistent with the best interests of the person and the public.  
21 An order of commitment issued pursuant to this para-  
22 graph shall be for a period of one year.”; and

23 (3) by adding at the end the following new sub-  
24 sections:

25 “(c) The psychiatrists and qualified psychologists  
26 who are members of the Commission shall be competent



1 and compellable witnesses at a hearing or trial held pursu-  
 2 ant to this chapter.

3 “(d) The jury to be used in any case where a jury  
 4 trial is demanded under this chapter shall be impaneled,  
 5 upon order of the Court, from the jurors in attendance  
 6 upon other branches of the Court, who shall perform the  
 7 services in addition to and as part of their duties in the  
 8 Court.”.

9 (b) EFFECTIVE DATE.—The amendments made by  
 10 this section shall apply with respect to trials under section  
 11 21–545, District of Columbia Code, which are initiated on  
 12 or after the date of the enactment of this Act.

13 **SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMIS-**  
 14 **SION.**

15 (a) IN GENERAL.—Subchapter IV of chapter 5 of  
 16 title 21, District of Columbia Official Code, is amended  
 17 by inserting after section 21–545 the following new sec-  
 18 tion:

19 **“§ 21–545.01. Renewal of commitment status by com-**  
 20 **mission; review by Court**

21 “(a) At least 60 days prior to the expiration of an  
 22 order of commitment issued pursuant to section 21–545  
 23 or this section, the chief clinical officer of the Department,  
 24 or the chief of service of the facility, hospital, or mental  
 25 health provider to which the person is committed may peti-

1 tion the Commission for a renewal of the order of commit-  
2 ment for that person. For good cause shown, a petition  
3 of commitment may be filed within the last 60 days of  
4 the one-year period of commitment. The petition for re-  
5 newal of commitment shall be supported by a certificate  
6 of a psychiatrist or qualified psychologist stating that he  
7 has examined the person and is of the opinion that the  
8 person is mentally ill, and, because of the illness, is likely  
9 to injure himself or other persons if not committed. The  
10 term of the renewed commitment order shall not exceed  
11 one year.

12 “(b) Within 3 days of the filing of a petition under  
13 subsection (a) of this section, the Commission shall send  
14 a copy of the petition and supporting certificate by reg-  
15 istered mail to the person with respect to whom the peti-  
16 tion was filed and by regular mail to the person’s attorney.

17 “(c) The Commission shall promptly examine a per-  
18 son for whom a petition is filed under subsection (a) of  
19 this section, and, in accordance with the procedures de-  
20 scribed in sections 21–542 and 21–543, shall thereafter  
21 promptly hold a hearing on the issue of the person’s men-  
22 tal illness and whether, as a result of a mental illness,  
23 the person is likely to injure himself or other persons if  
24 not committed.

1       “(d) If the Commission finds, after a hearing under  
2 subsection (c) of this section, that the person with respect  
3 to whom the hearing was held is no longer mentally ill,  
4 or is not mentally ill to the extent that the person is likely  
5 to injure himself or other persons if not committed, the  
6 Commission shall immediately order the termination of the  
7 commitment and notify the Court of that fact in writing.

8       “(e) If the Commission finds, after a hearing under  
9 subsection (c) of this section, that the person with respect  
10 to whom the hearing was held remains mentally ill to the  
11 extent that the person is likely to injure himself or others  
12 if not committed, the Commission shall order the renewal  
13 of the commitment of the person for an additional term  
14 not to exceed one year and shall promptly report that fact,  
15 in writing, to the Court. The report shall contain the Com-  
16 mission’s findings of fact and conclusions of law. A copy  
17 of the report shall be served by registered mail on the per-  
18 son with respect to whom the hearing was held and by  
19 mail on the person’s attorney.

20       “(f) If a petition for a renewal of an order of commit-  
21 ment is pending at the expiration of the commitment pe-  
22 riod ordered under section 21–545 or this section, the  
23 Court may, for good cause shown, extend the period of  
24 commitment pending resolution of the renewal petition.

1       “(g) Within the last 30 days of the period of commit-  
2   ment, the chief clinical officer of the Department, or the  
3   chief of service of the facility, hospital, or mental health  
4   provider to which a person is committed, shall notify the  
5   Court which ordered the person’s commitment pursuant  
6   to section 21–545 or this section of the decision not to  
7   seek renewal of commitment. Notice to the Court shall be  
8   in writing and a copy of the notice shall be mailed to the  
9   person who was committed and the person’s attorney.

10       “(h)(1) A person for whom the Commission orders  
11   renewed commitment pursuant to subsection (e) of this  
12   section may seek a review of the Commission’s order by  
13   the Superior Court of the District of Columbia, and the  
14   Commission, orally and in writing, shall advise the person  
15   of this right.

16       “(2) A review of the Commission’s order of renewed  
17   commitment, in whole or in part, may be made by a judge  
18   of the appropriate division sua sponte and shall be made  
19   upon a motion of one of the parties made pursuant to pro-  
20   cedures established by rules of the Court. The reviewing  
21   judge shall conduct such proceedings as required by the  
22   rules of the Court.

23       “(3) An appeal to the District of Columbia Court of  
24   Appeals may be made only after a judge of the Court has

1 reviewed the Commission's order of renewed commit-  
2 ment.".

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 of subchapter IV of chapter 5 of title 21, District of Co-  
5 lumbia Official Code, is amended by inserting after the  
6 item relating to section 21–545 the following:

“21–545.01. Renewal of commitment status by Commission; review by Court.”.

Passed the House of Representatives October 6,  
2004.

Attest:

JEFF TRANDAHL,  
*Clerk.*